Chandka

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6982 OF 2007

Parksons Press Ltd. ..Petitioners

versus

Todi Industries Pvt. Ltd. ..Respondents

Ms. Snehal Mody for the Petitioners.

Mr. P. K. Dhakephalkar i/b. Mr. P. K. Vyas for the Respondents.

CORAM : S. A. BOBDE, J.
DATE : 17TH OCTOBER, 2007.

P.C.

. Petitioners - Defendants application for amendment of written statement has been rejected, hence, this petition.

2. The plaintiffs had interalia averred that they had denied permission to the petitioners to make certain constructions, such as water tanks. Earlier, the Defendants had stated in effect that they had obtained the permission from the respondents - plaintiffs. Later, they wished to state, by the proposed amendment, that they had not

obtained such permission. The trial court has rightly not granted this part of the amendment application on the ground that this is a complete volte face and therefore should not be allowed.

3. Ms. Mody, learned counsel for the petitioners submitted that even if that part of the proposed amendment is rejected, it was not necessary to reject that part of the proposed amendment by which the petitioners merely intended to introduce a relevant material fact, namely, that the petitioners had not constructed any water tanks.

4. Mr. Dhakephalkar, learned counsel for the respondents is not in a position to point out anything to the contrary in the earlier written statement.

5. Having regard to the fact that if the petitioners are now allowed to plead that they had not constructed the water tank, it would not result in taking away any admission or introducing an opposite stand. Hence, the petitioners shall be entitled to amend their written statement to introduce a statement to the effect that they have

not constructed any water tank on the terrace. The order rejecting the application for amendment is modified to the above effect. Save and except the above, the challenge to the impugned order is hereby rejected. Petition is disposed of accordingly.

(S.A. BOBDE, J.)